

CONTROL OF NOISE FROM CIVIL AIRCRAFT – CONSULTATION PAPER

1 SUMMARY

- 1.1. The Government's consultation paper details proposals for changing some provisions of the Civil Aviation Act 1982 ('the 1982 Act'), and for creating new powers. These powers are to include helping airports to enforce mitigation measures for noise and to enable local authorities to enforce noise agreements.
- 1.2. Should the 1982 Act be amended as proposed this would be a statutory function.

2 INTRODUCTION

- 2.3 The consultation paper "Control of Noise from Civil Aircraft" invites comments by Friday 13th October 2000 on the Government's proposals to change the powers of the Secretary of State, local authorities and aerodromes to establish and enforce noise amelioration schemes. The paper asks specific questions which have been reproduced in this report. Members are asked to consider the proposed response detailed below each question.

3 SUMMARY OF PROPOSALS

- 3.1 The Government propose making, when parliamentary time allows, the following changes to the powers available under the 1982 Act: -
 - Introducing a new enabling power for aerodromes to establish and enforce noise control arrangements, consistent with flight safety, possibly including control of ground noise.
 - Introducing a new power to compel an aerodrome to prepare a noise amelioration scheme, which is proposed will include provisions for;
 - Local authority powers to enforce compulsory noise amelioration schemes;
 - Dispute resolution; and
 - Amending an existing amelioration scheme.
 - Repealing the power to impose a duty on the CAA (Civil Aviation Authority) to consider environmental factors when licensing certain aerodromes.

- No change to the power that provides facilities for consultation at certain aerodromes.
- Changes to the power for fixing the charges for using licensed aerodromes by reference to noise factors.
- No change, apart from a technicality, to the power dealing with nuisance caused by aircraft in flight.
- No change to the power dealing with nuisance caused by aircraft on aerodromes, that is ground noise.
- Limited changes to the powers providing for the regulation of noise and vibration from aircraft, which use aerodromes 'designated' under section 80 of the 1982 act, while they are in the air.
- No changes to the powers relating to noise insulation at designated aerodromes.

4 CONSULTATION DETAIL

- 4.1 A suggested response is shown in italics after each question.

5 NEW ENABLING POWER FOR AERODROMES TO ESTABLISH AND ENFORCE NOISE CONTROL ARRANGEMENTS

- 5.1 Any airport can prepare a reasonable noise amelioration scheme within its boundary. However, no aerodrome imposes charges in respect of track-keeping infringements. It is proposed that aerodromes not controlled with respect to noise and vibration by the Secretary of State (Section 78 of the 1982 Act) should be given greater powers to regulate flying behaviour, as it affects noise, within a defined area. For example, specifying noise preferential routes and /or use of landing or take-off procedures.

Q1 We invite views on the proposal to give non-designated aerodromes greater powers to regulate flying behaviour?

The Council agrees that all aerodromes should be given greater powers to regulate flying behaviour as it affects noise and vibration.

- 5.2 It is also proposed that aerodromes are given explicit discretion to limit how often aircraft, or certain aircraft types, can take-off or land. Members are asked to consider if all aerodromes should be given the enhanced powers or should some smaller ones be excluded, say by number of annual aircraft movements, or by turnover.

- Q2 (i) Do you consider that a new power should be available to all aerodromes, or only to certain categories?**

The new power should be available to all aerodromes.

- (ii) If the latter, what sort of categories - e.g. would an annual turnover or movements threshold be appropriate, or perhaps the new power should be limited to licensed aerodromes?**

See response to above.

- 5.3 The Government proposes that matters should be resolved locally between parties and therefore noise amelioration schemes should have the status of agreements between aerodromes and their users i.e. subject to civil rather than criminal sanctions.

- Q3 We invite views on our proposal that infringements of noise amelioration schemes should be dealt with on a civil basis?**

The Council agrees with that infringements of noise amelioration schemes should be dealt with on a civil basis.

- 5.4 Although not wanting to specify in detail the sanctions that aerodromes could apply to pilots, who fail to comply with amelioration schemes, it is suggested that the Secretary of State provides guidance on the setting of maximum sanctions. As well as ultimately bans on using the aerodrome for persistent or serious transgressors it is proposed that penalties are based on the standard scale of fines used by the courts. There are five levels which are currently set at the following values: 1 = £200; 2 = £500; 3 = £1000; 4 = £2500; 5 = £5000.

- Q4 (i) Do you agree that aerodromes should be free to set whatever reasonable sanctions they think appropriate, within limits set down by the Secretary of State?**

Yes, as proposed on the basis of the standard scale of fines.

- (ii) What are your views on the sanctions that could be applied by an aerodrome for failure to comply with a noise amelioration scheme?**

In addition to the fines as mentioned above, bans should be available for regular or serious transgressors.

- 5.5 It is suggested that the new powers extend to a specified area around the aerodrome. This could be based on the local aerodrome traffic zone (ATZ), where one exists, or a comparable or larger area. With respect to

the London Southend Airport the ATZ is a zone of airspace which extends from the ground to 2000ft with a radius of 2 nautical miles (3.7km). It is noted that limiting control to the ATZ could prevent certain types of noise mitigation flying procedures. The new power could relate to vertical and lateral aircraft position e.g. height after take-off/before landing.

- Q5 (i) Do you think the physical extent of the new power should be defined as**
- a) the aerodrome traffic zone (ATZ) where one exists;**
 - b) a larger area based on the ATZ definition;**
 - c) an area dependent on the vertical and lateral position of an aircraft when it is at a certain stage during flight - such as attaining a specific height after take-off, or on joining final approach or leaving a 'noise preferential route'.**

Option c) should be used as it can be adapted for different types/classes of aircraft giving the greatest flexibility to the airport operators to reduce noise and vibration.

- (ii) We invite other suggestions on defining the physical extent of the new power.**

See comment above.

- 5.6 A further possibility would be to permit the aerodrome to apply to the Secretary of state for authority to extend the scheme beyond the normal spatial limits.

- Q6 (i) Do you think that the Secretary of State should be given discretion to authorise the extension of the boundaries of scheme?**

Yes, dependent on the total number of traffic movements.

- (ii) If so, what opportunity (if any) should be given to others to make representations?**

The Local Authority, providers of air traffic services (air traffic controllers) and the Airport Operators should be able to make representations to the Secretary of State before determination of the boundaries of a scheme.

6 NEW POWER TO COMPEL AN AERODROME TO PREPARE A NOISE AMELIORATION SCHEME

- 6.1 The new power would give the Secretary of State discretion to direct an aerodrome to prepare a compulsory amelioration scheme. The Secretary of State could also indicate any particular issues that he wished to be addressed e.g. landing /take-off procedures and other directions to pilots.

The aerodrome would be expected to consult locally about the scheme and to agree it with a local authority. The aerodrome would be expected to include other authorities in its vicinity when consulting. Any disputed points would be put to arbitration.

- 6.2 It is proposed that aerodromes will only be designated in cases where, in the Secretary of States opinion, voluntary arrangements have been ineffective leading to unnecessary noise nuisance.

Q7 (i) Do you agree that the Secretary of State should have discretion to specify that an aerodrome must prepare a noise amelioration scheme and then must agree it with its local planning authority?

No.

(ii) If not, can you suggest a better alternative?

It should be a statutory requirement for all aerodromes to prepare a noise amelioration scheme to be agreed with its local planning authority. For all existing aerodromes this should be within 12 months of any legislation coming into force and for all new aerodromes the scheme to be agreed prior to it being licensed. All amelioration schemes should contain proposals for dealing with ground noise.

7 LOCAL AUTHORITY POWERS TO ENSURE THE IMPLEMENTATION OF COMPULSORY NOISE AMELIORATION SCHEMES

- 7.1 It is suggested that the local planning authority should be able to oblige an aerodrome to implement a compulsory noise amelioration scheme. This would need to be consistent with flight safety and take into consideration instrument flight procedures. This obligation would only apply to airports designated under the new power proposed in paragraph 6.2 above. The Government would like local authorities to consider how they may oblige an aerodrome to implement an amelioration scheme and what sanctions should be available. It is suggested that the local authority should be able to serve notice requiring compliance; failure to take reasonable steps to comply would be an offence.

Q8 (i) Do you agree that local authorities should be given the power to compel certain aerodromes to implement noise amelioration schemes that were agreed under compulsion?

Yes.

(ii) Should local authorities additionally be given special powers to compel aerodromes to implement voluntary noise amelioration schemes?

Yes, if not made a statutory requirement.

(iii) What sanctions do you think should be available to local authorities?

Fines in line with those for businesses under the Environmental Protection Act 1990, currently £20,000.

8 DISPUTE RESOLUTION

- 8.1 The Government is concerned that referral of disputes to the Secretary of State would lead to delay. It might also encourage parties to refer a dispute without making any serious effort to reach a solution. It is proposed that the disputing parties appoint an independent arbitrator.

Q9 Do you agree that disputes about the content of a noise amelioration scheme should be resolved through an independent arbitration process, without referral to the Secretary of State?

Yes.

- 1.3. It is proposed that the arbitration process be conducted broadly according to the Arbitration Act 1996. The cost of arbitration would normally be split 50:50 between the aerodrome and the local planning authority. Should one party vexatiously precipitated arbitration, provision should be made for it to bear the whole cost.

Q10 Do you have any views on how arbitration costs should be divided between the parties, or on other details of the arbitration process?

Arbitration should be conducted according to the Arbitration Act 1996 but with each party bearing their own costs except where one party vexatiously brings a case they should be made to bear the whole cost.

9 AMENDING AN EXISTING AMELIORATION SCHEME

- 9.1 It is not proposed to stipulate how long an amelioration scheme should last. Where a scheme is of long duration there should be provision to change it, should circumstances change. The scheme could be reviewed by agreement, say, every five or seven years.

Q11 (i) Do you agree that aerodromes, in agreement with their local planning authority when required, should decide how long their noise amelioration schemes should run for and that long-term schemes should be reviewed at appropriate intervals?

Yes, where a review is to take place more frequently, than see below, due

to changing circumstances e.g. increase/decrease in traffic movements.

- (ii) Should the review period for a long term scheme be laid down, or left to the parties to agree?**

There should be a statutory obligation to review a scheme at least every five years.

10 DUTY ON PROVIDERS OF AIR TRAFFIC SERVICES

- 10.1 It is proposed that an explicit duty is placed on providers of air traffic services to take account of the need to minimise disturbance caused by noise and vibration and to consult the managers of substantial aerodromes over proposals to change standard procedures.

- Q12 (i) Do you agree that the providers of air traffic services (ATS) should be required to take account of the need to minimise noise disturbance and to consult the managers of certain aerodromes over proposals to change standard navigation procedures in the vicinity of these aerodromes?**

Yes.

- (ii) Should ATS providers be required to consult all aerodromes, only licensed aerodromes, or only those with an annual turnover or number of movements, or some other criterion above a certain level?**

All aerodromes.

11 REPEAL OF CAA'S DUTY TO CONSIDER ENVIRONMENTAL FACTORS WHEN LICENSING CERTAIN AERODROMES

- 1.4. Section 5 of the 1982 Act places a duty on the CAA to take account of environmental factors in licensing any specified aerodrome. The Government believes that aerodrome licensing does not necessarily offer the best possible way of resolving environmental problems. The CAA should concentrate on safety issues. Environmental matters are being looked at separately with the involvement of local people.

- Q13 Do you agree that section 5 of the Civil Aviation Act 1982 should be repealed and replaced (as to noise) with new powers?**

No. Before licensing an aerodrome the CAA should consider environmental matters and should only be able to licence or re-licence where an agreed noise amelioration scheme is in place.

12 CONSULTATION FACILITIES AT CERTAIN AERODROMES

- 12.1 Once an aerodrome has been designated under section 35 of the 1982 Act, its management must provide adequate consultation for aerodrome users, local authorities, and local representative organisations e.g. residents' associations. It is acknowledged that the process works well but any long-running dispute could require independent arbitration.

Q14 (i) Do you have any views on the current consultation arrangements?

See below.

(ii) Is the legislative framework adequate?

See below.

(iii) Should it, for example, provide specifically for a dispute resolution procedure?

There should be a provision for the resolution of disputes.

(iv) How might the arrangements be improved?

As above.

**13 FIXING CHARGES FOR USING LICENSED AERODROMES BY
REFERENCE TO NOISE FACTORS**

- 13.1 Section 38 of the 1982 Act allows licensed aerodromes to fix their charges in relation to aircraft noise, or to the inconvenience resulting from such noise. The Government are considering amending the section 38 to include charging relating to the use, for example, of noise preferential routes.

Q15 Do you agree that this section should be amended to make it clearer that charges can be directly related to compliance to noise mitigation procedures - such as 'noise preferential routes' (provided such routes are reasonable having regard to safety requirements and aircraft capabilities)?

Yes.

**14 NUISANCE CAUSED BY AIRCRAFT IN FLIGHT (AIR NOISE) AND ON
AERODROMES (GROUND NOISE)**

- 14.1 Section 76 of the 1982 Act protects pilots and airlines from being sued for trespass or nuisance because they have over flown anyone's property. At the same time it permits you to seek actions for loss or

damage without the need to prove negligence. This is inline with Article 1 of the Rome Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface 1952. A technical amendment is proposed to reflect the transfer of the control of aircraft noise to the European Communities Act 1972. Section 76 would need to be complied with if a pilot or airline is to avoid liability for the ordinary operation of a flight.

- 1.5. Air Navigation Orders may be used to regulate noise and vibration caused by aircraft on aerodromes. Provided they are complied with, aircraft and aerodrome operators are not liable for any nuisance caused by such noise and vibration. The Government does not propose changing these arrangements, which rely on section 77 of the 1982 Act and Article 108 of the Air Navigation Order 2000. This does not stop an aerodrome from including specific measures to reduce ground noise in any noise amelioration scheme. Also, the Secretary of State could under the new powers, discussed in paragraph 6.1, indicate that he wished ground noise dealt with specifically.

Q16 Do you agree that there should be no change to section 76 or 77 of the 1982 Act (other than the technical amendment referred to) or to Article 108 of the Air Navigation Order 2000?

The Council agrees with the proposal, however ground noise should always be considered in any amelioration scheme.

15 REGULATION OF NOISE AND VIBRATION FROM AIRCRAFT, WHICH USE 'DESIGNATED' AERODROMES, WHILE THEY ARE IN THE AIR

- 15.1 The designated aerodromes under section 78 of the 1982 Act are currently Heathrow, Gatwick and Stansted. Section 78 allows the Secretary of State to direct aircraft operators and airport operators to adopt procedures that limit noise and vibration.
- 15.2 It is proposed to make some minor changes: -
- Enable the Secretary of State to limit how often aircraft, or certain types, can take-off or land within a specified time period e.g. 24 hours.
 - Make it explicit that the Secretary of State can direct an aerodrome manager, subject to safety, to direct take-offs and/or landings onto a particular runway.
 - Make it an explicit duty upon air traffic service providers to co-operate with aerodrome managers, subject to safety, on direction of operations.

- Explicitly enable designated aerodromes to make surcharges, or the Secretary of State to stipulate fines, for violations of the requirements under section 78.

Q17 (i) Do you agree or disagree with the proposals at (a), (b), (c) and (d) above?

Agree with the above proposals.

(ii) Do you agree that the Secretary of State's powers under section 78 of the Civil Aviation Act 1982 should remain otherwise unchanged?

No comment.

(iii) If not, have you any suggestions for change?

16 FINES

- 16.1 Under section 78(8) of the 1982 Act, the Secretary of State can require designated aerodromes to install, operate and maintain noise measuring equipment and provide noise measurement reports. Failure to comply with these duties is linked to level 3 on the standard scale (currently £1000). It is proposed to set the fine to level 5 (currently £5000). Members' view is also sought on the setting of daily fines, for example, level 1 (currently £200) for each day that failure to comply persisted.

Q18 (i) Do you agree that fines should be linked to the standard scale or should they remain fixed or be determined on some other basis?

Fines in line with those for businesses under the Environmental Protection Act 1990, currently £20,000.

(ii) If you consider that the fines should remain fixed, do you consider that the current level (£1000) is appropriate?

See above.

(iii) If you consider that the fines should be linked to the standard scale, do you think that the proposed level for the initial fine is appropriate? Do you think that daily fines are a good or bad idea?

See above.

17 NOISE INSULATION

- 17.1 The Government proposes no changes to section 79 of the 1982 Act, which provides for the Secretary of State, for designated aerodromes

only, for sound proofing grants. No statutory scheme is currently in force, though future developments may justify new schemes.

Q19 Do you agree that there should be no change to section 79 of the Civil Aviation Act 1982?

Agree no change.

18 ENVIRONMENTAL IMPLICATIONS

- 18.1 The legislation will introduce additional powers to improve protection from aircraft noise for communities living near aerodromes, something the Council has lobbied for over many years.

19 RESOURCE IMPLICATIONS

- 19.1 This is difficult to predict but the setting up of an amelioration scheme is likely to need a large input of staff resources in the initial stages.
- 19.2 The Government advises that local authorities will incur some non-recurring costs where an aerodrome is required to secure agreement on a noise amelioration scheme, for example commissioning specialist advice. There would be additional costs of perhaps between £10k and £50k should a dispute arise.
- 19.3 *Within the legislation provision should be made for neighbouring authorities affected by noise and whose residents would benefit from a noise amelioration scheme to share the costs. Costs should be allocated for each authority on a proportional basis. These costs could be proportioned on the area of the authority encompassed by the footprint of the ATZ. The setting up of such schemes would place an unfair burden on the already limited resources of local authorities. Aerodromes are part of the Nations infrastructure and as such the Government should fund the initial costs of local authorities for the setting up of amelioration schemes.*

20 LEGAL IMPLICATIONS

- 20.1 As contained within the report.

21 PARISH IMPLICATIONS

- 21.1 The London Southend Airport is situated in the Rochford Parish, however noise and vibration from aircraft can affect a large area.

22 RECOMMENDATION

It is proposed that the Committee **RESOLVES**

That, subject to Members' comments, the responses detailed within this report are made to the consultation paper "Control of noise from civil aircraft".
(HHHCC)

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Background Papers:

None

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